

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

COLIN O' KROLEY,)
v. Plaintiff)
FASTCASE, INC., et al.)
Defendants)
) No. 3:13-0780
) Judge Campbell/Bryant

To: Todd J. Campbell, United States District Judge

REPORT AND RECOMMENDATION

The Court has referred this case to the undersigned Magistrate Judge to determine the status of service of process on the remaining Defendants (Docket Entry No. 69).

The remaining Defendants are Fastcase, Inc., and Yasni.com, neither of which have entered an appearance in this case. It appears from the record that Plaintiff attempted service by mail on Defendant Fastcase but that the mailing was returned to the Plaintiff marked "unclaimed" (Docket Entry No. 19).

Defendant Yasni.com is identified in the complaint as a German company with offices in Frankfurt, Germany (Docket Entry No. 1 at 4). Plaintiff apparently attempted to serve this Defendant by registered mail at an address in Frankfurt, Germany (Docket Entry No. 20). Plaintiff has filed a "track & confirm" document apparently from the United States Postal Service,

indicating that this item of mail was delivered on August 22, 2013 (Docket Entry No. 20 at 3).

The Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, sometimes called the Hague Service Convention, establishes the manner of service of legal process in civil matters among member states of the Hague Conference on Private International Law. It appears that at all pertinent times the United States and Germany have been members of this Convention. www.hcch.net/index_en.php?act=conventions.status&cid=17. The record indicates that Plaintiff O'Kroley, who is proceeding pro se, has failed to obtain service on Defendant Yasni.com pursuant to the provisions of the Hague Service Convention.

In summary, for the reasons stated above, the undersigned Magistrate Judge finds that Plaintiff O'Kroley has not obtained service of process on Defendant Fastcase, Inc. or upon Defendant Yasni.com. The undersigned further finds that Plaintiff has neither shown good cause for his failure nor sought an extension of time within which to obtain service of process upon these two Defendants. Therefore, the undersigned finds this case should be dismissed for failure to obtain service of process upon these two remaining Defendants, pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

Recommendation

For the reasons stated above, the undersigned Magistrate Judge recommends that the complaint be dismissed for failure to obtain service of process upon the remaining Defendants.

Any party has fourteen (14) days from receipt of this Report and Recommendation in which to file any written objections to it with the District Court. Any party opposing said objections shall have fourteen (14) days from receipt of any objections filed in which to file any responses to said objections. Failure to file specific objections within fourteen (14) days of receipt of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. Thomas v. Arn, 474 U.S. 140 (1985); Cowherd v. Million, 380 F.3d 909, 912 (6th Cir. 2004) (en banc).

It is so ORDERED.


/s/ John S. Bryant
JOHN S. BRYANT
United States Magistrate Judge